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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/537,439	03/27/2000	Jay Hosler	M-7619	4236
33031	7590	05/05/2005	EXAMINER	
CAMPBELL STEPHENSON ASCOLESE, LLP			ABELSON, RONALD B	
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BLDG. 4, SUITE 201			ART UNIT	PAPER NUMBER
AUSTIN, TX 78759			2666	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. **09/537,439**Applicant(s) **HOSLER ET AL**Examiner **Ronald Abelson**Art Unit **2666**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005 and 15 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-42 is/are allowed.
- 6) ☐ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. 4/5/2005.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 are rejected under 35 U.S.C. 102(a) as being anticipated by Okabe (US 6,031,838).

Regarding claim 1, Okabe teaches an apparatus for a communications network (fig. 1) the apparatus comprising at least one interface circuit that reads frame data received from the communications network and writes frame data to be transmitted over the communications network (fig. 1 Line Interface), the frame data including a plurality of transport overhead fields (fig. 1 box 25, cell header, col. 6 lines 6 - 8).

Okabe teaches signature logic (fig. 1 box 25) coupled to the at least one interface circuit, the signature logic identifies signature data and writes the signature data into at least one of a plurality of transport overhead fields in an outgoing frame (fig. 1 box 25, cell header, col. 6 lines 6 - 8, adds active/standby identification data, col. 6 line 43 - 48).

Regarding claim 2, reflector logic coupled to the at least one interface circuit, wherein the reflector logic copies data from at least one of the received transport overhead fields, the copied data being placed into a transport overhead field in the outgoing frame (fig. 1 box 32, fig. 21 box 32c, col. 16 lines 54-57).

***Allowable Subject Matter***

3. Claims 25-42 are allowed.
4. Claims 3-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments, see applicant pg. 9, filed 3/14/2005, with respect to the double patenting under 35 U.S.C. 101 have been fully considered and are persuasive. As stated in the telephone interview with Mr. Sam Campbell on 4/5/2005, the examiner erred in the prior office action in stating that statutory type double patenting existed with respect to

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application 09/752,001. The double patenting is of non statutory type. The applicant has obviated this issue with the filing of a Terminal Disclaimer (4/15/2005).

6. Applicant's arguments, see pg. 28, filed 3/14/2005, with respect to claims 6,7, 19-24, and 40-42 have been fully considered and are persuasive. The objection of the claims has been withdrawn.

7. Applicant's arguments filed 3/14/2005 have with respect to the 102 rejection of claims 1 and 2 (applicant: pg. 28-29) been fully considered but they are not persuasive.

The applicant contends that Okabe fails to teach signature data (applicant: pg. 28 last paragraph). The applicant admits that Okabe teaches each line interfaces adds active/standby identification data, which indicates whether its own line interface is active or standby (applicant: pg. 28 last paragraph). The examiner corresponds the active/standby identification data of Okabe with the applicant's signature data.

The applicant states that the identification data fails to indicate the type of the interface sending the cell, or the capabilities of that interface (applicant: pg. 28 last

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paragraph). However, these limitations are not claimed.

Applicants are reminded that the invention is the subject matter defined by the claims, and the limitations of the specification are not read into the claims where no express statement of that limitation is included in the claims, see *In re Priest*, 199 USPQ 11.

Applicant repeats the assertion that Okabe does not teach the claimed signature data nor signature logic (applicant: pg. 29 1<sup>st</sup> paragraph). As stated previously, the applicant admits that Okabe teaches each line interfaces adds active/standby identification data, which indicates whether its own line interface is active or standby (applicant: pg. 28 last paragraph). The examiner corresponds the active/standby identification data of Okabe with the applicant's signature data. Regarding signature logic, as stated in the previous office action, Okabe teaches signature logic (fig. 1 box 25) coupled to the at least one interface circuit, the signature logic identifies signature data and writes the signature data into at least one of a plurality of transport overhead fields in an outgoing frame (fig. 1 box 25, cell header, col. 6 lines 6 - 8, adds active/standby identification data, col. 6 line 43 - 48). Note, the signature logic of Okabe is writing the signature data into the cell header.

Applicant's repeats the contention that no parallel can be drawn between Okabe's active/standby identification and the claimed signature data (pg. 29 last paragraph). This issue has been previously addressed.

### **Conclusion**


8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Abelson whose telephone number is (571) 272-3165. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ronald Abelson  
Examiner  
Art Unit 2666

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SUPERVISORY PATENT EXAMINER  
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